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JAN 7 2010

SURFACE
TRANSPORTATION BOARD

January 7, 2010

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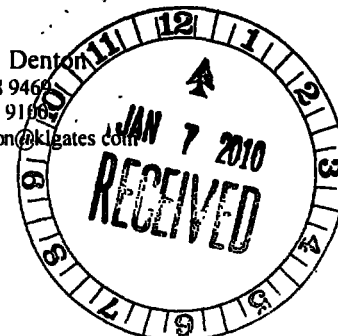
JAN 07 2010

Via Hand Delivery

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

SURFACE
TRANSPORTATION BOARD

Peter W. Denton
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ENTERED
Office of Proceedings

JAN 07 2010

Part of
Public Record

Re: STB Docket No. AB-1050X
Regional Rail Right of Way Company — Abandonment Exemption — In Collin and
Dallas Counties, Texas

STB Docket No. AB-585 (Sub-No. 4X)
Dallas, Garland and Northeastern Railroad, Inc. — Discontinuance Exemption — In
Collin and Dallas Counties, Texas

STB Docket No. AB-33 (Sub-No. 288X)
Union Pacific Railroad Company — Discontinuance Exemption — In Collin and
Dallas Counties, Texas

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceedings are an original and ten copies of the **Petition for Notice of Interim Trail Use and Rail Banking Pursuant to 16 U.S.C. §1247(d)**, dated January 7, 2010. A check in the amount of \$250, representing the appropriate fee for this filing, is also enclosed.

Dallas Area Rapid Transit ("DART") respectfully requests waiver under 49 C.F.R. § 1002.2(e) of the \$250 filing fee. DART is a political subdivision of the State of Texas organized under Chapter 452 of the Texas Transportation Code as a regional transportation authority. Under 49 C.F.R. § 1002.2(e)(1), "[f]iling fees are waived for an application or other proceeding which is filed by a federal governmental agency, or a state or local government entity." DART respectfully submits that it is entitled to the fee waiver under 49 C.F.R. § 1002.2(e)(1). DART is a political subdivision of the State of Texas; it is not a quasi-government corporation or government-subsidized transportation company. As part of its public mandate, DART is seeking Board authority for the issuance of a notice of interim

Cynthia T. Brown, Chief
January 7, 2010
Page 2

trail use/rail banking ("NITU") for possible future use of the rail corridor as part of a public transit corridor. DART is filing a request for the NITU in furtherance of this public purpose and the benefits will flow to the general public in the Dallas area. Therefore, waiver of the filing fee is appropriate.

Please acknowledge receipt of this filing by countersigning the attached copy of this letter.

Should any questions arise regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter W. Denton', with a long horizontal flourish extending to the right.

Peter W. Denton
Attorney for Dallas Area Rapid Transit

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1050X

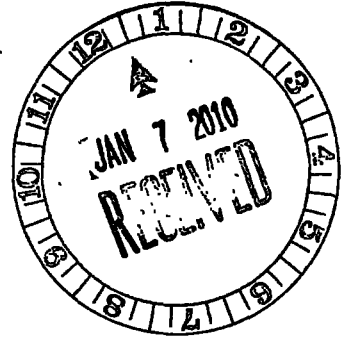
REGIONAL RAIL RIGHT OF WAY COMPANY
— ABANDONMENT EXEMPTION —
IN COLLIN AND DALLAS COUNTIES, TEXAS

DOCKET NO. AB-585 (Sub-No. 4X)

DALLAS, GARLAND AND NORTHEASTERN RAILROAD, INC.
— DISCONTINUANCE EXEMPTION —
IN COLLIN AND DALLAS COUNTIES, TEXAS

DOCKET NO. AB-33 (Sub-No. 288X)

UNION PACIFIC RAILROAD COMPANY
— DISCONTINUANCE EXEMPTION —
IN COLLIN AND DALLAS COUNTIES, TEXAS



**PETITION FOR NOTICE OF INTERIM TRAIL USE AND
RAIL BANKING PURSUANT TO 16 U.S.C. § 1247(d)**

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**ATTORNEYS FOR DALLAS
AREA RAPID TRANSIT**

Dated: January 7, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1050X

REGIONAL RAIL RIGHT OF WAY COMPANY
— ABANDONMENT EXEMPTION —
IN COLLIN AND DALLAS COUNTIES, TEXAS

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UNION PACIFIC RAILROAD COMPANY
— DISCONTINUANCE EXEMPTION —
IN COLLIN AND DALLAS COUNTIES, TEXAS

**PETITION FOR NOTICE OF INTERIM TRAIL USE AND
RAIL BANKING PURSUANT TO 16 U.S.C. § 1247(d)**

Pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, Dallas Area Rapid Transit (“DART”) hereby petitions the Surface Transportation Board (“STB” or the “Board”) for the issuance of a notice of interim trail use/rail banking (“NITU”) covering the right-of-way underlying the rail line that is the subject of the above-referenced abandonment and discontinuance proceeding.

On December 8, 2009, Regional Rail Right of Way Company (“RRROW”), Dallas, Garland and Northeastern Railroad, Inc. (“DGNO”), and Union Pacific Railroad Company (“UP”) jointly filed a Notice of Exemption pursuant to 49 C.F.R. § 1152.50 for RRROW to abandon, and DGNO and UP to discontinue trackage rights over, a portion of the Cotton Belt railroad line between approximately milepost 592.43 at Renner Junction and approximately

milepost 597.77 at Knoll Trail Road (the "Subject Line"), a distance of approximately 5.34 miles, within Collin and Dallas Counties. A map of the Subject Line is attached. On December 28, 2009, the STB served and published in the Federal Register notice of the exemption, which is scheduled to become effective on January 27, 2010.

RRROW is a wholly owned subsidiary of DART, which is a political subdivision of the State of Texas charged with developing and operating a public transit system in the greater Dallas, Texas area. DART currently owns the right, title, and ownership interest in the right-of-way, trackage, and other physical assets associated with the Subject Line, while RRROW owns a freight rail operating easement over the Subject Line. The right-of-way underlying the Subject Line may be suitable for future use as part of a public transit corridor. At this point, DART fully anticipates using the rail corridor for public transit use at some point in the future. DART accordingly seeks issuance of a NITU under the Trails Act, 16 U.S.C. § 1247(d), to allow rail banking and such use of the right-of-way of the Subject Line. DART will retain ownership of the right-of-way, and as such will remain fully responsible for management and use of the right-of-way, payment of any applicable taxes, and any legal liability arising out of its ownership and use. See 49 C.F.R. § 1152.29(a)(2). DART acknowledges that interim trail use and rail banking of the Subject Line is subject to DART's continuing fulfillment of the financial responsibility obligations outlined above and the possible future restoration of rail service on the line. See 49 C.F.R. § 1152.29(a)(3).

In several previous instances (including four involving DART), the Board and its predecessor have authorized a railroad to rail bank a right-of-way in its own name where the property may be suitable for interim trail use and the railroad agrees to assume financial responsibility for the line. Dallas Area Rapid Transit – Abandonment Exemption – In Collin

County, TX, STB Docket No. AB-439 (Sub-No. 6X) (STB served May 15, 2006); Dallas Area Rapid Transit – Abandonment Exemption – In Dallas County, TX, STB Docket No. AB-439 (Sub-No. 4X) (STB served Nov. 14, 2000); Dallas Area Rapid Transit – Abandonment Exemption – In Dallas and Collin Counties, TX, STB Docket No. AB-439 (Sub-No. 2X) (STB served May 19, 1999); Dallas Area Rapid Transit – Abandonment Exemption – In Dallas County, TX, STB Docket No. AB-439X (STB served Jul. 3, 1995). DART has similarly indicated here its willingness to retain ownership of, and remain responsible for, the right-of-way of the Subject Line. As in the prior cited cases, issuance of the requested NITU would further the national policy of preserving railroad rights-of-way for future reactivation of rail service.

WHEREFORE, DART respectfully requests that this proceeding be reopened and that the Notice of Exemption served and published on December 8, 2009 exempting the abandonment and discontinuance of the Subject Line be modified to the extent necessary to implement interim trail use/rail banking, subject to the requirement that DART notify the Board if DART intends to discontinue rail banking and consummate the abandonment and further subject to the condition that interim trail use/rail banking is subject to the future restoration of rail service.

Respectfully submitted,

By: 

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**ATTORNEYS FOR DALLAS
AREA RAPID TRANSIT**

Dated: January 7, 2010